

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7188 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE M.R. SHAH

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

POPATLAL AMBALAL PATEL

Appearance:

1. Special Civil Application No. 7188 of 2004
MR ASHISH M DAGLI for Petitioner No. 1
MR CHETAN B RAVAL for Respondent No. 1-2
RULE SERVED for Respondent No. 3
RULE NOT RECD BACK for Respondent No. 4
-

CORAM : HON'BLE MR.JUSTICE M.R. SHAH

Date of decision: 02/12/2004

ORAL JUDGEMENT

#. In this petition filed under Article 227 of the Constitution of India, the petitioner has challenged the legality and validity of the impugned order of issuance of the jangam warrant dated 29.4.2004 issued by the learned Motor Accident Claim Tribunal (Main), Banaskantha at Palanpur.

#. Mr.Dagli, learned advocate appearing for the petitioner-corporation, has submitted that, in fact, the petitioner corporation has already deposited the amount which was required to be deposited by the petitioner corporation in pursuance of the order dated 5.12.2003 passed below Exh.4 in Motor Accident Claim Petition No.445 of 2000 by the learned Tribunal and still the darkhast application has been filed against the petitioner and other persons and the Tribunal has passed the order of issuing jangam warrant against the petitioner corporation. He submitted that by the aforesaid order dated 5.12.2003 the original opponent nos.1 and 3 were ordered to deposit jointly and severally a sum of Rs.50000/- towards the interim compensation under Section 140 of the Motor Vehicles Act along with the interest at the rate of 9% p.a. from the date of the main application. However, the Tribunal has passed the order that as two vehicles are involved in the accident, liability of opponent nos.1 and 3 and the owners of each vehicles is fixed at 50%, i.e. opponent no.1-petitioner herein was liable for the amount of Rs.25,000/- and opponent No.3 is to deposit the balance amount of Rs.25,000/- with interest at the rate of 9% p.a. He further submitted that on 16.1.2004 so far as the petitioner is concerned, the petitioner has already deposited the amount of Rs.32,860/- with the learned Tribunal, and, therefore, the Tribunal could not have and ought not have passed the order of issuance of jangam warrant.

#. Heard the learned advocates for the parties.

#. It is an admitted position that by order dated 5.12.2003 the liability of the petitioner corporation is for an amount of Rs.25,000/- along with interest at the rate of 9% p.a. from the date of the main claim petition and so far as the balance amount of Rs.25,000/- is concerned, it is the liability of the original opponent No.3. The petitioner corporation has already deposited the amount of Rs.32,860/- being the amount of Rs.25,000/plus interest at the rate of 9% p.a. from the date of the application till realization and the receipt thereof is also produced by the petitioner along with the present petition.

#. Under the circumstances, in view of the deposit of the amount of Rs.32,860/- by the petitioner corporation, there is no reason to continue with the order of jangam warrant issued by the Tribunal and the same is required to be quashed and set aside qua the petitioner corporation only and is hereby quashed and set aside.

#. In view of the above, this petition is allowed. Rule is made absolute with no order as to costs.

(M.R.Shah,J)

(pathan)